

110TH CONGRESS
1ST SESSION

S. 653

To expand visa waiver program to countries on a probationary basis and
for other purposes.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 15, 2007

Mr. VOINOVICH (for himself, Mr. AKAKA, Mr. LUGAR, Ms. MIKULSKI, and Mr. STEVENS) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To expand visa waiver program to countries on a
probationary basis and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Secure Travel and
5 Counterterrorism Partnership Act”.

6 **SEC. 2. SENSE OF CONGRESS.**

7 It is the sense of Congress that—

8 (1) the United States should modernize the visa
9 waiver program by simultaneously—

1 (A) enhancing program security require-
2 ments; and

3 (B) extending visa-free travel privileges to
4 nationals of foreign countries that are allies in
5 the war on terrorism; and

6 (2) the expansion described in paragraph (1)
7 will—

8 (A) enhance bilateral cooperation on crit-
9 ical counterterrorism and information sharing
10 initiatives;

11 (B) support and expand tourism and busi-
12 ness opportunities to enhance long-term eco-
13 nomic competitiveness; and

14 (C) strengthen bilateral relationships.

15 **SEC. 3. DISCRETIONARY VISA WAIVER PROGRAM EXPAN-**
16 **SION.**

17 Section 217(c) of the Immigration and Nationality
18 Act (8 U.S.C. 1187(c)) is amended by adding at the end
19 the following:

20 “(8) NONIMMIGRANT VISA REFUSAL RATE
21 FLEXIBILITY.—The Secretary of Homeland Security,
22 in consultation with the Secretary of State, may
23 waive the application of paragraph (2)(A) for a
24 country if—

1 “(A) the country meets all existing security
2 requirements and enhanced security require-
3 ments described in section 4 of the Secure
4 Travel and Counterterrorism Partnership Act;

5 “(B) the Secretary of Homeland Security
6 determines that the totality of the country’s se-
7 curity risk mitigation measures provide assur-
8 ance that the country’s participation in the pro-
9 gram would not compromise the law enforce-
10 ment, security interests, or enforcement of the
11 immigration laws of the United States;

12 “(C) there has been a sustained reduction
13 in visa refusal rates for aliens from the country
14 and conditions exist to continue such reduction;
15 and

16 “(D) the country cooperated with the Gov-
17 ernment of the United States on
18 counterterrorism initiatives and information
19 sharing before the date of its designation as a
20 program country, and the Secretary of Home-
21 land Security and the Secretary of State expect
22 such cooperation will continue.

23 “(9) DISCRETIONARY SECURITY-RELATED CON-
24 siderations.—

1 “(A) IN GENERAL.—In determining wheth-
2 er to waive the application of paragraph (2)(A)
3 for a country, pursuant to paragraph (8), the
4 Secretary of Homeland Security, in consultation
5 with the Secretary of State, may take into con-
6 sideration other factors affecting the security of
7 the United States, including—

8 “(i) airport security standards in the
9 country;

10 “(ii) whether the country assists in
11 the operation of an effective air marshal
12 program;

13 “(iii) the standards of passports and
14 travel documents issued by the country;
15 and

16 “(iv) other security-related factors.

17 “(B) OVERSTAY RATES.—In determining
18 whether to permit a country to participate in
19 the program, the Secretary of Homeland Secu-
20 rity may consider the estimated rate at which
21 nationals of the country violate the terms of
22 their visas by remaining in the United States
23 after the expiration of such visas.”.

1 **SEC. 4. SECURITY ENHANCEMENTS TO THE VISA WAIVER**
2 **PROGRAM.**

3 (a) IN GENERAL.—Section 217 of the Immigration
4 and Nationality Act (8 U.S.C. 1187) is amended—

5 (1) in subsection (a)—

6 (A) by striking “Operators of aircraft” and
7 inserting the following:

8 “(10) ELECTRONIC TRANSMISSION OF IDENTI-
9 FICATION INFORMATION.—Operators of aircraft”;
10 and

11 (B) by adding at the end the following:

12 “(11) ELIGIBILITY DETERMINATION UNDER
13 THE ELECTRONIC TRAVEL AUTHORIZATION SYS-
14 TEM.—Beginning on the date on which the elec-
15 tronic travel authorization system developed under
16 subsection (h)(3) is fully operational, each alien
17 traveling under the program shall, before applying
18 for admission, electronically provide basic biographi-
19 cal information to the system. Upon review of such
20 biographical information, the Secretary of Homeland
21 Security shall determine whether the alien is eligible
22 to travel to the United States under the program.”;

23 (2) in subsection (c), as amended by section 3
24 of this Act—

25 (A) in paragraph (2)—

1 (i) by amending subparagraph (D) to
2 read as follows:

3 “(D) REPORTING LOST AND STOLEN PASS-
4 PORTS.—The government of the country enters
5 into an agreement with the United States to re-
6 port, or make available through Interpol, to the
7 United States Government information about
8 the theft or loss of passports within a strict
9 time limit and in a manner specified in the
10 agreement.”; and

11 (ii) by adding at the end the fol-
12 lowing:

13 “(E) REPATRIATION OF ALIENS.—The
14 government of the country accepts for repatri-
15 ation any citizen, former citizen, or national
16 against whom a final executable order of re-
17 moval is issued not later than 3 weeks after the
18 issuance of the final order of removal. Nothing
19 in this subparagraph creates any duty for the
20 United States or any right for any alien with
21 respect to removal or release. Nothing in this
22 subparagraph gives rise to any cause of action
23 or claim under this paragraph or any other law
24 against any official of the United States or of
25 any State to compel the release, removal, or

1 consideration for release or removal of any
2 alien.

3 “(F) PASSENGER INFORMATION EX-
4 CHANGE.—The government of the country en-
5 ters into an agreement with the United States
6 to share information regarding whether nation-
7 als of that country traveling to the United
8 States represent a threat to the security or wel-
9 fare of the United States or its citizens.”;

10 (B) in paragraph (5)—

11 (i) by striking “Attorney General”
12 each place it appears and inserting “Sec-
13 retary of Homeland Security”; and

14 (ii) in subparagraph (A)(i)—

15 (I) in subclause (II), by striking
16 “and” at the end;

17 (II) in subclause (III), by strik-
18 ing the period at the end and insert-
19 ing “; and”; and

20 (III) by adding at the end the
21 following:

22 “(IV) shall submit to Congress a
23 report regarding the implementation
24 of the electronic travel authorization
25 system under subsection (h)(3) and

1 the participation of new countries in
 2 the program through a waiver under
 3 paragraph (8).”; and

4 (C) by adding at the end the following:

5 “(10) TECHNICAL ASSISTANCE.—The Secretary
 6 of Homeland Security, in consultation with the Sec-
 7 retary of State, shall provide technical assistance to
 8 program countries to assist those countries in meet-
 9 ing the requirements under this section.”;

10 (3) in subsection (f)(5), by striking “of blank”
 11 and inserting “or loss of”; and

12 (4) in subsection (h), by adding at the end the
 13 following:

14 “(3) ELECTRONIC TRAVEL AUTHORIZATION
 15 SYSTEM.—

16 “(A) SYSTEM.—The Secretary of Home-
 17 land Security, in consultation with the Sec-
 18 retary of State, is authorized to develop and im-
 19 plement a fully automated electronic travel au-
 20 thorization system (referred to in this para-
 21 graph as the ‘System’) to collect such basic bio-
 22 graphical information as the Secretary of
 23 Homeland Security determines to be necessary
 24 to determine, in advance of travel, the eligibility

1 of an alien to travel to the United States under
2 the program.

3 “(B) FEES.—The Secretary of Homeland
4 Security may charge a fee for the use of the
5 System, which shall be—

6 “(i) set at a level that will ensure re-
7 covery of the full costs of providing and
8 administering the System; and

9 “(ii) available to pay the costs in-
10 curred to administer the System.

11 “(C) VALIDITY.—

12 “(i) PERIOD.—The Secretary of
13 Homeland Security, in consultation with
14 the Secretary of State shall prescribe regu-
15 lations that provide for a period, not to ex-
16 ceed 3 years, during which a determination
17 of eligibility to travel under the program
18 will be valid. Notwithstanding any other
19 provision under this section, the Secretary
20 of Homeland Security may revoke any
21 such determination at any time and for
22 any reason.

23 “(ii) LIMITATION.—A determination
24 that an alien is eligible to travel to the
25 United States under the program is not a

1 determination that the alien is admissible
2 to the United States.

3 “(iii) JUDICIAL REVIEW.—Notwith-
4 standing any other provision of law, no
5 court shall have jurisdiction to review an
6 eligibility determination under the System.

7 “(D) REPORT.—Not later than 60 days
8 before publishing notice regarding the imple-
9 mentation of the System in the Federal Reg-
10 ister, the Secretary of Homeland Security shall
11 submit a report regarding the implementation
12 of the System to—

13 “(i) the Committee on Homeland Se-
14 curity and Governmental Affairs of the
15 Senate;

16 “(ii) the Committee on the Judiciary
17 of the Senate;

18 “(iii) the Select Committee on Intel-
19 ligence of the Senate;

20 “(iv) the Committee on Appropria-
21 tions of the Senate;

22 “(v) the Committee on Homeland Se-
23 curity of the House of Representatives;

24 “(vi) the Committee on the Judiciary
25 of the House of Representatives;

1 “(vii) the Permanent Select Com-
2 mittee on Intelligence of the House of Rep-
3 resentatives; and

4 “(viii) the Committee on Appropria-
5 tions of the House of Representatives.”.

6 (b) EFFECTIVE DATE.—Section 217(a)(11) of the
7 Immigration and Nationality Act, as added by subsection
8 (a)(1)(B) shall take effect on the date which is 60 days
9 after the date on which the Secretary of Homeland Secu-
10 rity publishes notice in the Federal Register of the re-
11 quirement of such paragraph.

12 **SEC. 5. EXIT SYSTEM.**

13 (a) IN GENERAL.—Not later than 1 year after the
14 date of the enactment of this Act, the Secretary of Home-
15 land Security shall establish an exit system that records
16 the departure on a flight leaving the United States of
17 every alien participating in the visa waiver program estab-
18 lished under section 217 of the Immigration and Nation-
19 ality Act (8 U.S.C. 1187).

20 (b) SYSTEM REQUIREMENTS.—The system estab-
21 lished under subsection (a) shall—

22 (1) match biometric information of the alien
23 against relevant watch lists and immigration infor-
24 mation; and

1 (2) compare such biometric information against
2 manifest information collected by air carriers on pas-
3 sengers departing the United States to confirm such
4 individuals have departed the United States.

5 (c) REPORT.—Not later than 180 days after the date
6 of the enactment of this Act, the Secretary shall submit
7 a report to Congress that describes—

8 (1) the progress made in developing and deploy-
9 ing the exit system established under this section;
10 and

11 (2) the procedures by which the Secretary will
12 improve the manner of calculating the rates of non-
13 immigrants who violate the terms of their visas by
14 remaining in the United States after the expiration
15 of such visas.

16 **SEC. 6. AUTHORIZATION OF APPROPRIATIONS.**

17 There are authorized to be appropriated such sums
18 as may be necessary to carry out this Act, and the amend-
19 ments made by this Act.

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